

STATEMENT OF FACTS

Your affiant, Emily Eckert, is a Special Agent assigned to the Federal Bureau of Investigation. In my duties as a Special Agent, I am currently tasked with investigating criminal activity in and around the Capitol grounds on January 6, 2021. As a Special Agent, I am authorized by law or by a Government agency to engage in or supervise the prevention, detention, investigation, or prosecution of a violation of Federal criminal laws.

The U.S. Capitol is secured 24 hours a day by U.S. Capitol Police. Restrictions around the U.S. Capitol include permanent and temporary security barriers and posts manned by U.S. Capitol Police. Only authorized people with appropriate identification are allowed access inside the U.S. Capitol. On January 6, 2021, the exterior plaza of the U.S. Capitol was also closed to members of the public.

On January 6, 2021, a joint session of the United States Congress convened at the United States Capitol, which is located at First Street, SE, in Washington, D.C. During the joint session, elected members of the United States House of Representatives and the United States Senate were meeting in separate chambers of the United States Capitol to certify the vote count of the Electoral College of the 2020 Presidential Election, which had taken place on November 3, 2020. The joint session began at approximately 1:00 p.m. Shortly thereafter, by approximately 1:30 p.m., the House and Senate adjourned to separate chambers to resolve a particular objection. Former Vice President Mike Pence was present and presiding, first in the joint session, and then in the Senate chamber.

As the proceedings continued in both the House and the Senate, and with Vice President Mike Pence present and presiding over the Senate, a large crowd gathered outside the U.S. Capitol. As noted above, temporary and permanent barricades were in place around the exterior of the U.S. Capitol building, and U.S. Capitol Police were present and attempting to keep the crowd away from the Capitol building and the proceedings underway inside.

At such time, the certification proceedings were still underway and the exterior doors and windows of the U.S. Capitol were locked or otherwise secured. Members of the U.S. Capitol Police attempted to maintain order and keep the crowd from entering the Capitol; however, around 2:00 p.m., individuals in the crowd forced entry into the U.S. Capitol, including by breaking windows and by assaulting members of the U.S. Capitol Police, as others in the crowd encouraged and assisted those acts.

Shortly thereafter, at approximately 2:20 p.m. members of the United States House of Representatives and United States Senate, including the President of the Senate, Vice President Mike Pence, were instructed to—and did—evacuate the chambers. Accordingly, the joint session of the United States Congress was effectively suspended until shortly after 8:00 p.m. Vice President Pence remained in the United States Capitol from the time he was evacuated from the Senate Chamber until the sessions resumed.

During national news coverage of the aforementioned events, video footage which appeared to be captured on mobile devices of persons present on the scene depicted evidence of

violations of local and federal law, including scores of individuals inside the U.S. Capitol building without authority to be there.

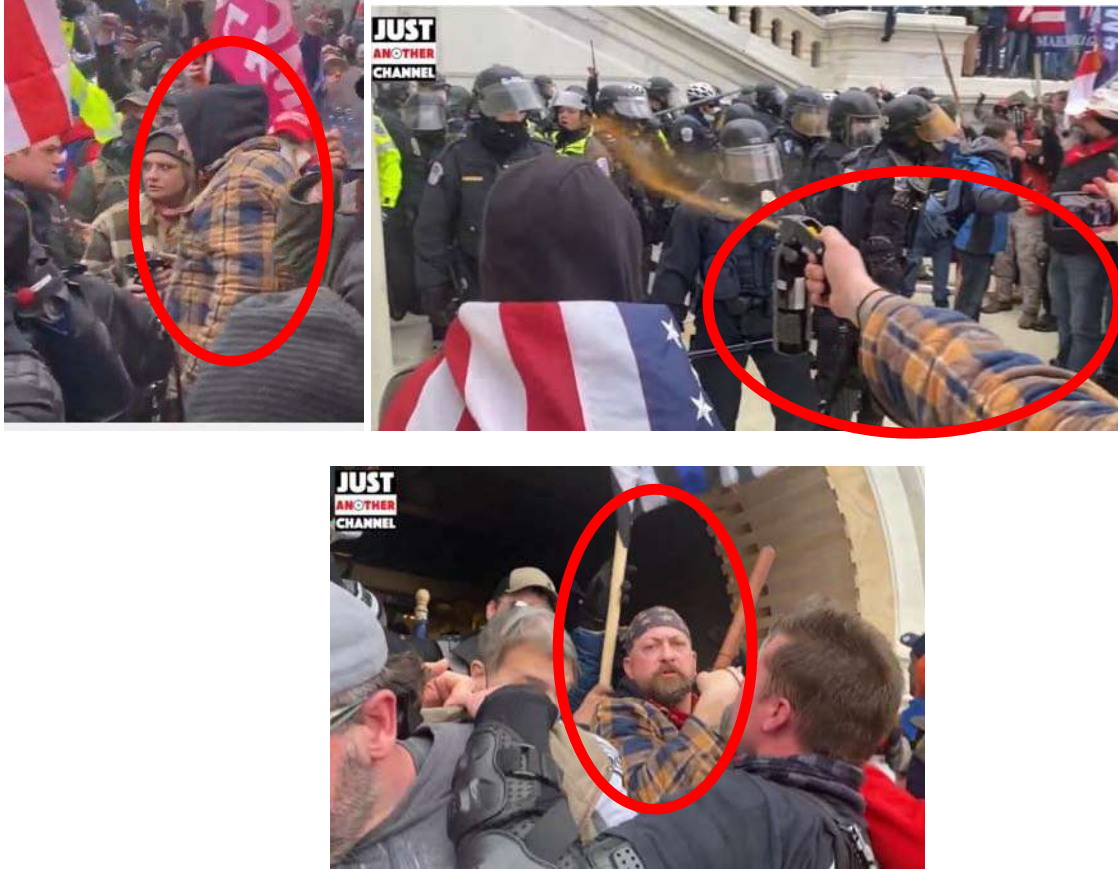
On January 7, 2021, “Action 8 News” posted a video on its YouTube account with the warning: “WARNING – GRAPHIC CONTENT: RAW FOOTAGE OF THE CAPITOL YESTERDAY – THIS IS WHAT REALLY HAPPENED” (hereinafter “Action 8 Video”).¹ The video covers the time period from approximately 1:45 p.m. to 3:15 p.m. on January 6, 2021. In that video a large group of U.S. Capitol Police (“USCP”) officers and D.C. Metropolitan Police Department (“MPD”) officers are gathered to protect the doors of the lower west terrace and tunnel that leads into the Capitol Building. A large group of rioters is gathered near to the group of officers on the west terrace, which is on the exterior of the building. Individuals in the group of rioters engage in a wide range of violent and non-violent conduct including chanting, throwing things, striking officers, and spraying substances such as bear spray and mace at the group of officers.

Your affiant viewed the Action 8 Video and observed an individual, who was later identified as PETER SCHWARTZ, on the west terrace of the Capitol Building wearing a distinctive yellow-and-blue checked shirt or jacket. At timestamp 48:24 in the video, an individual believed to be SCHWARTZ accepts a black canister containing an unknown substance from another protester.² At timestamp 49:00, the video shows an arm clad in the same distinctive yellow-and-blue check material previously observed on SCHWARTZ. The arm extends out from the crowd toward the group of officers and sprays an orange substance from a black canister directly at the group of officers. The orange substance lands near the face of an unidentified officer, causing him to turn his face away and step backwards. The officer appears to try to avoid inhaling the orange substance. At timestamp 1:18:00 in the video, SCHWARTZ is again observed on camera. In this portion of the video, he is carrying a wooden baton in the midst of the large crowd of rioters near the tunnel arch. Screen grabs from the Action 8 Video are included below.

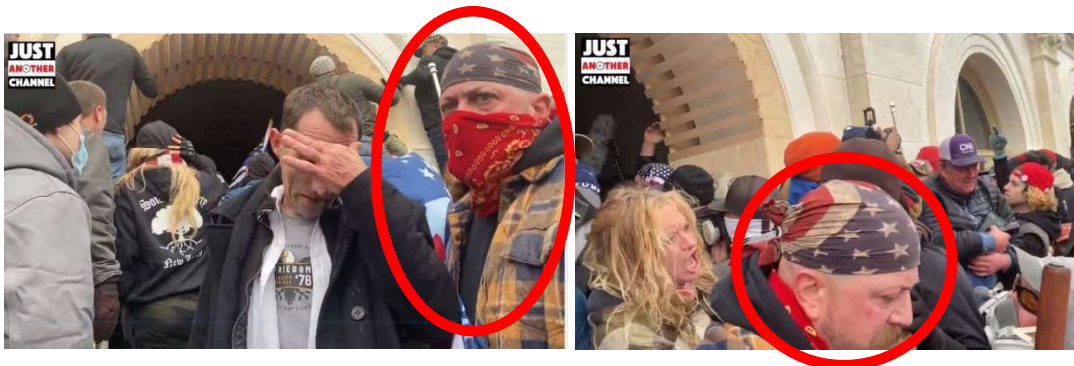
¹ As of January 27, 2021, the video was publicly-available here:

<https://www.youtube.com/watch?t=2940&v=0zyjCvDN4Ig&feature=youtu.be>

² Although your affiant has not identified the specific substance contained within the black canister, your affiant is using the generic term “mace” from this point forward to describe the orange liquid substance that SCHWARTZ sprayed out of the canister. This is based upon officer reports that numerous individuals within the crowd were spraying mace-like substances at the officers during this time period. The canister wielded by SCHWARTZ appears identical to MPD issued MK-9 pepper spray, which is regularly carried and was carried by MPD officers on January 6, 2021. Additionally, the officers’ reaction to the spray was consistent with the substance being a chemical irritant.



In the Action 8 Video, at timestamp 1:12:00, your affiant also observed SCHWARTZ walk toward the Capitol Building west terrace tunnel. He exits the tunnel at 1:18:12. Video screen captures from the Action 8 Video are below.



Your affiant also reviewed other open-source videos, including a video posted on Banned.video, titled “What Really Happened in D.C.” (hereinafter “Banned Video”).³ In the Banned Video, your affiant observed an individual wearing the same yellow-and-blue checked top that was previously observed on SCHWARTZ. That individual then used a large red canister to spray law enforcement with what appeared to be mace, as shown below.

³ As of January 27, 2021, the video was publicly-available here:
<https://theresistance.video/watch?id=5ff73a601669d333f2b27315>



On January 11, 2021, the FBI National Threat Operations Center (NTOC) received a tip from an individual (hereinafter W-1) who is personally acquainted with SCHWARTZ. In the tip, W-1 reported that “Pete SCHWARTZ” was involved in the Capitol riots. W-1 stated SCHWARTZ is a felon and was released from prison due to COVID-19. W-1 also stated that SCHWARTZ is employed as a traveling welder. According to W-1, SCHWARTZ was supposed to be at a rehabilitation facility in Owensboro, Kentucky on January 6, 2021. However, W-1 saw a picture of SCHWARTZ on the Capitol Building steps that appeared to have been taken on January 6, 2021. As part of the tip, W-1 also provided the Facebook URL for what he claimed was SCHWARTZ’s Facebook page. W-1 did not provide any other photographs, however. Due to the volume of tips provided to the FBI since January 6, 2021 – which stands at over 150,000 as of January 26, 2021 – the FBI was not able to immediately contact W-1 regarding the information that W-1 provided and did not immediately link SCHWARTZ to the individual who repeatedly maced officers at the Capitol.

Subsequently, as part of the investigation, your affiant reviewed the public Facebook profile for SCHWARTZ, as identified by W-1. The public profile photo and other public photos on the page depict a person who appears to be SCHWARTZ. The text below the profile picture states, “God created all mankind. Samuel Colt made them equal. Samuel Colt and I share a birthday.” An open source search of “Samuel Colt” reveals the inventor of the revolver, whose birthday was July 19th. SCHWARTZ’S date of birth is July 19. The Facebook profile also included a January 7, 2021, post that appeared to have been made by SCHWARTZ stating, “All the violence from the left was terrorism. What happened yesterday was the opening of a war. I was there and whether people will acknowledge it or not we are now at war. It would be wise to be ready!” No videos or images accompanied the post. Your affiant also saw in the comments written by Pete SCHWARTZ, under the January 7, 2021 post, “I’ll tell you this...I’m shocked reading the reports of what happened yesterday. Very different than what I saw up close and personal. (We’re still spitting up gas and mace today).”

On January 18, 2021, the FBI disseminated throughout the United States an image of SCHWARTZ, who had not been identified at that time, from the Action 8 Video (labeled “BOLO 120-AFO”), seeking information about the person depicted. The BOLO is below:



SEEKING INFORMATION

ASSAULT ON FEDERAL OFFICERS AND VIOLENCE AT THE UNITED STATES CAPITOL

WASHINGTON, D.C.
JANUARY 6, 2021

Photograph #117-AFO Photograph #118-AFO Photograph #119-AFO Photograph #120-AFO Photograph #121-AFO

Photograph #122-AFO Photograph #123-AFO Photograph #124-AFO Photograph #125-AFO Photograph #126-AFO

DETAILS

The Federal Bureau of Investigation's (FBI) Washington Field Office is seeking the public's assistance in identifying individuals who made unlawful entry into the United States Capitol Building and assaulted federal law enforcement personnel on January 6, 2021, in Washington, D.C.

Anyone with information regarding these individuals, or anyone who witnessed any unlawful violent actions at the Capitol or near the area, is asked to contact the FBI's Toll-Free Tipline at 1-800-CALL-FBI (1-800-225-5324) to verbally report tips. You may also submit any information, photos, or videos that could be relevant online at fbi.gov/USCapitol. You may also contact your local FBI office or the nearest American Embassy or Consulate.

When calling to provide a tip on one of these individuals, please reference the above photo number, including the AFO.

Field Office: Washington D.C.

www.fbi.gov

On January 24, 2021, your Affiant contacted W-1 regarding the tip W-1 submitted to NTOC on January 11, 2021, about SCHWARTZ. W-1 stated that he was friends with SCHWARTZ and last saw SCHWARTZ in-person approximately six months ago. He noted that SCHWARTZ still owes him money. W-1 indicated that SCHWARTZ was at the Capitol on January 6, 2021, because SCHWARTZ told him “we were there” and posted on Facebook about driving to Washington, D.C. for the protest with “more people than voted for Biden.” W-1 viewed the BOLO photos on the FBI website and identified “BOLO-120 AFO” as “definitely Pete SCHWARTZ.” W-1 also sent a photograph obtained by W-1 to your affiant of SCHWARTZ at the Capitol on January 6, 2021 wearing the same blue-and-yellow checked shirt, blue bandana, and blue hood as the BOLO image.

Also on January 24, 2021, FBI agents in Kentucky interviewed a Lieutenant (“hereinafter Lt-1”) from the Owensboro, Kentucky, police force regarding the identification of the individual in BOLO-120 AFO. Lt-1 was shown BOLO-120 and confirmed that the individual in the photo was SCHWARTZ. Lt-1 indicated that he had been required to serve legal process on SCHWARTZ in approximately April of 2020. In the course of carrying out his duties, Lt-1 had a face-to-face

conversation with SCHWARTZ and recognized BOLO-120 from his previous interaction with SCHWARTZ.⁴

On January 22, 2021, your affiant reviewed MPD body worn camera (BWC) footage from an MPD Officer (hereinafter Officer-1) who was among the group of officers on the west terrace at the same time as SCHWARTZ. At approximately 1:19:50 of the BWC – which corresponds to 2:35 p.m. – the video captures SCHWARTZ’s face and an arm extending through the crowd of rioters and spraying an orange substance at the officers. The arm appears to be covered in the same yellow-and-blue check material seen on SCHWARTZ in the Action 8 video. Screenshots are included below.



On January 22, 2021, your affiant interviewed Officer-1 regarding the events at the Capitol on January 6, 2021. Officer-1 stated his platoon received a call for an officer-in-trouble around 1:00 p.m. on January 6, 2021, and he responded to the Capitol Building. Upon arriving, Officer-1 joined other law enforcement officers, including USCP on the western terrace, in “holding the

⁴ In addition to the identifications described above, the FBI has received multiple additional tips regarding SCHWARTZ. One tip identified SCHWARTZ’s Facebook page by a person not acquainted with SCHWARTZ; another tip also identified SCHWARTZ as looking similar to his Kentucky booking photo; and one tip by a person not acquainted with SCHWARTZ identified BOLO-120 as SCHWARTZ based on his Kentucky booking photo. One tip identified BOLO-120 as an individual in Utah based on similar ideology and beards, and another tip identified BOLO-120 as an individual in Oklahoma whom the tipster last saw in 2011. However, there is no other evidence to connect either individual to the events at the Capitol on January 6, 2021. Your Affiant is not aware of any other information provided to the FBI about SCHWARTZ or BOLO-120 at this time. However, the FBI is daily receiving tips from throughout the country regarding individuals who may have participated in the events at the Capitol on January 6, 2021.

line” to prevent protestors from entering the Capitol Building. Over the course of approximately four hours, Officer-1 was “maced” multiple times by protestors and, at one point, Officer-1 was unable to see. Officer-1 did not have a gas mask. Your affiant showed Officer-1 the Action 8 Video footage. Officer-1 identified himself in the video and stated he knew he had been maced at least twice while outside. Officer-1 identified the law enforcement officer beside him as a USCP officer based on the officer’s badge and patch. Officer-1 stated SCHWARTZ looked familiar but he could not recall any additional information because he had been maced so many times that day.

Your affiant also interviewed an MPD Detective (“Officer-2”) regarding the events at the Capitol on January 6, 2021. Officer-2 stated he was part of MPD’s Civil Disturbance Unit (CDU) and arrived at the Capitol around 12:00 p.m. or 1:00 p.m. on January 6, 2021. When Officer-2 arrived, a line of protestors had already formed outside the Capitol Building and Officer-2 joined other law enforcement officers, including USCP, at the west terrace to hold the line. The protestors eventually broke through the line and Officer-2 moved inside to hold the west terrace door. Officer-2 remained at the west terrace door for approximately three hours attempting to keep protestors out while protestors shoved ladders, flag poles and other items through the windows. Officer-2 was maced several times while indoors, and noted that the wind was blowing mace towards law enforcement and the air was filled with it. Your affiant showed Officer-2 the above-referenced Action 8 Video of SCHWARTZ as he maced law enforcement officers. Officer-2 identified himself as the officer in a yellow jacket with a red whistle beside Officer-1 and a USCP officer. Officer-2 could not recall the physical descriptions of anyone that maced him.

CONCLUSION

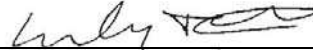
Based upon the foregoing, your affiant submits that there is probable cause to believe that SCHWARTZ violated:

(1) **18 U.S.C. § 111(a)**, which makes it a crime to forcibly assault, resist, oppose, impede, intimidate, or interfere with any person designated in section 1114 of title 18 while engaged in or on account of the performance of official duties. Persons designated within section 1114 include any person assisting an officer or employee of the United States in the performance of their official duties.

(2) **18 U.S.C. § 1752(a)(1) and (a)(2)**, which makes it a crime to (1) knowingly enter or remain in any restricted building or grounds without lawful authority to do so; and (2) knowingly, and with intent to impede or disrupt the orderly conduct of Government business or official functions, engage in disorderly or disruptive conduct in, or within such proximity to, any restricted building or grounds when, or so that, such conduct, in fact, impedes or disrupts the orderly conduct of Government business or official functions. For purposes of Section 1752 of Title 18, a “restricted building” includes a posted, cordoned off, or otherwise restricted area of a building or grounds where the President or other person protected by the Secret Service, including the Vice President, is or will be temporarily visiting; or any building or grounds so restricted in conjunction with an event designated as a special event of national significance.

(3) **40 U.S.C. § 5104(e)(2)(D)**, which makes it a crime to willfully and knowingly utter loud, threatening, or abusive language, or engage in disorderly or disruptive conduct, at any place in the Grounds or in any of the Capitol Buildings with the intent to impede, disrupt, or disturb the orderly conduct of a session of Congress or either House of Congress, or the orderly conduct in that building of a hearing before, or any deliberations of, a committee of Congress or either House of Congress.

(4) **18 U.S.C. § 231(a)(3)**, which makes it unlawful to commit or attempt to commit any act to obstruct, impede, or interfere with any fireman or law enforcement officer lawfully engaged in the lawful performance of his official duties incident to and during the commission of a civil disorder which in any way or degree obstructs, delays, or adversely affects commerce or the movement of any article or commodity in commerce or the conduct or performance of any federally protected function. For purposes of Section 231 of Title 18, a federally protected function means any function, operation, or action carried out, under the laws of the United States, by any department, agency or instrumentality of the United States or by an officer or employee thereof. This includes the Joint Session of Congress where the Senate and House count Electoral College votes.



Special Agent Emily Eckert
Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1
by telephone, this 2nd day of February 2021.

ZIA M. FARUQUI
U.S. MAGISTRATE JUDGE